

OHIO

SENATE

JOURNAL

WEDNESDAY, OCTOBER 5, 2005

ONE HUNDREDTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, October 5, 2005, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, Columbus, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

**REPORTS OF REFERENCE AND BILLS FOR SECOND
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bills and concurrent resolution, standing in order for second consideration, be referred to committee as recommended:

S. B. No. 166-Senators Grendell, Jacobson.

To enact section 109.123 of the Revised Code to require the Attorney General to review state contracts that will obtain services or invest funds.

To the Committee on Rules.

S. B. No. 168-Senators Grendell, Jacobson, Schuring, Dann.

To enact sections 102.991 and 2921.47 of the Revised Code to prohibit current or former state officials or employees who are convicted of ethics law violations from serving as legislative agents or executive agency lobbyists, and from being appointed as members of state boards, commissions, authorities, and other instrumentalities, for a period of five years, if the violation is a misdemeanor, or forever, if the violation is a felony.

To the Committee on Rules.

S. B. No. 169-Senators Dann, Prentiss, Fedor, Fingerhut, Hagan, Mallory, Miller, Roberts, Wilson, Zurz.

To amend section 102.021 and to enact sections 109.95 and 121.80 of the Revised Code to require the Attorney General to review and approve state contracts that will involve spending or investing more than one million dollars and to post copies of those contracts on the Attorney General's web site; to prohibit the awarding of state contracts to persons serving on state boards or commissions and to businesses whose primary owner serves on a state board

or commission; to prohibit a former employee of the Governor's office from being appointed to a state board or commission until three years after the person's employment has ended; and to require that former state elected officials and certain former state employees who must file disclosure statements for two years after their employment or service ends to file those statements for an additional year.

To the Committee on Rules.

S. B. No. 170-Senators Dann, Prentiss, Fingerhut, Hagan, Brady, Mallory, Roberts, Wilson, Fedor, Zurz, Miller, Schuring.

To enact sections 102.991, 2921.06, and 2921.47 of the Revised Code to create the criminal offense of extortion under color of official right and to prohibit current or former public officials or employees who are convicted of ethics law violations from serving for a period of five years from their conviction as legislative agents or executive agency lobbyists, and from ever being appointed as members of state boards, commissions, authorities, or other instrumentalities.

To the Committee on Rules.

S. B. No. 183-Senators Fingerhut, Dann, Fedor, Zurz, Roberts, Mallory, Gardner, Grendell, Schuring, Goodman, Padgett, Miller, Coughlin.

To amend section 5751.01 of the Revised Code and to repeal Section 557.09.09 of Am. Sub. H.B. 66 of the 126th General Assembly to exempt from the commercial activity tax amounts derived from the sale of property shipped into or from any foreign trade zone.

To the Committee on Ways and Means and Economic Development.

S. B. No. 184-Senator Gardner.

To amend sections 4511.21 and 4511.251 of the Revised Code to establish a 35-mile per hour speed limit for highways outside municipal corporations within island jurisdictions.

To the Committee on Highways and Transportation.

S. B. No. 185-Senators Padgett, Schuring.

To amend section 1345.01 of the Revised Code to expand the Consumer Sales Practices Act to cover transactions between two businesses.

To the Committee on Finance and Financial Institutions.

S. B. No. 186-Senators Miller, Dann.

To enact sections 3727.35 to 3727.47 of the Revised Code to require not-for-profit hospitals to provide certain levels of free medical services to qualified individuals.

To the Committee on Health, Human Services and Aging.

S. B. No. 187-Senators Grendell, Schuring, Mumper, Niehaus, Clancy, Fingerhut, Miller, Zurz.

To amend section 1345.02 of the Revised Code to make charging a price for a grade of gasoline that does not bear a reasonable relationship to the costs of making the particular grade of gasoline available to consumers an unfair or deceptive consumer sales practice and to create the Gasoline Practices Oversight Commission for the period ending December 31, 2006.

To the Committee on Judiciary - Civil Justice.

S. B. No. 188-Senators Grendell, Schuring.

To amend section 4729.01 and to enact sections 4729.552, 4729.553, 4729.554, 4729.555, and 4729.556 of the Revised Code to require the Board of Pharmacy to establish a drug compounding licensing program for terminal distributors of dangerous drugs.

To the Committee on Health, Human Services and Aging.

S. B. No. 189-Senator Grendell.

To amend sections 907.01, 907.14, and 907.28 of the Revised Code to make changes to the Agricultural Seed Law.

To the Committee on Agriculture.

S. B. No. 190-Senator Carey.

To amend sections 5725.31, 5729.07, 5733.42, and 5747.39 of the Revised Code to extend the job training tax credit for an additional year and to declare an emergency.

To the Committee on Ways and Means and Economic Development.

S. B. No. 191-Senator Mumper.

To amend sections 303.02, 303.14, 519.02, 519.14, 1513.30, 1514.01, 1514.04, 1514.05, 1514.06, 1514.09, 1514.11, 1514.99, and 5749.02 and to enact sections 315.09, 1514.011, 1514.051, 1514.40 to 1514.47, 1514.50, 1561.011, 1563.01, 1565.01, 1567.01, and 1571.011 of the Revised Code to revise the distribution of revenues from the severance tax on industrial minerals, to exempt industrial minerals mining operations from the state mine safety laws and instead provide for the adoption of federal mine safety requirements for those operations, to revise the zoning laws concerning industrial minerals mining, and to make other changes governing the mining of industrial minerals.

To the Committee on Environment and Natural Resources.

S. B. No. 192-Senator Miller.

To enact section 5101.804 of the Revised Code and to amend Section 206.66 of Am. Sub. H.B. 66 of the 126th General Assembly to create the Title IV-A Utility Program under which eligible households receive help with home energy and weatherization costs and to make an appropriation.

To the Committee on Finance and Financial Institutions.

S. B. No. 193-Senators Armbruster, Cates, Mumper, Spada.

To amend section 123.01, to enact sections 131.50, 1501.50, 1501.51, 1501.52, 1501.53, 1501.54, and 1501.55, and to repeal sections 5119.40, 5120.12, and 5123.23 of the Revised Code to create the Oil, Gas, and Timber Leasing Board and to establish a procedure by which the Board may enter into leases for oil and gas production and timber harvesting on land owned or under the control of a state agency for the purpose of providing funding for

capital costs for the agency.

To the Committee on Environment and Natural Resources.

S. C. R. No. 18-Senators Roberts, Dann, Brady, Fedor, Fingerhut, Hagan, Miller, Prentiss, Wilson, Zurz, Mallory.

To create the Bureau of Workers' Compensation Investment Review Committee to investigate the allegations of malfeasance concerning the Bureau of Workers' Compensation.

To the Committee on Rules.

YES - 3: J. KIRK SCHURING, MARK MALLORY, JEFF JACOBSON.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Said bills and concurrent resolution were considered a second time and referred to committee as recommended.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 167**-Senator Grendell, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Fedor.

YES - 9: LARRY A. MUMPER, DANIEL R. BRADY, KIMBERLY A. ZURZ, TERESA FEDOR, JEFFRY J. ARMBRUSTER, TOM NIEHAUS, TIMOTHY J. GRENDELL, J. KIRK SCHURING, GARY W. CATES.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Jordan submitted the following report:

The standing committee on Judiciary - Criminal Justice, to which was referred **S. B. No. 53**-Senator Carey, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Austria, Goodman, Schuring.

YES - 8: MARK MALLORY, JIM JORDAN, PATRICIA M. CLANCY, STEPHEN C. AUSTRIA, DAVID GOODMAN, TIMOTHY J. GRENDALL, KIMBERLY A. ZURZ, MARC DANN.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Niehaus submitted the following report:

The standing committee on Environment and Natural Resources, to which was referred **H. B. No. 157**-Representative Distel, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Grendell, Carey, Mumper, Fedor, Brady, Hagan.

YES - 8: JAY HOTTINGER, TIMOTHY J. GRENDALL, LARRY A. MUMPER, JOHN A. CAREY, DANIEL R. BRADY, TERESA FEDOR, ROBERT F. HAGAN, TOM NIEHAUS.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 157-Representatives Distel, Aslanides, McGregor, S. Patton, Seitz, C. Evans, Carano, Cassell, Hartnett, Brown, Strahorn, Perry, Gibbs, Setzer, Domenick, Allen, Blessing, Book, Chandler, Coley, Collier, Core, DeBose, Dolan, Driehaus, Fende, Flowers, Harwood, Hughes, Kearns, Key, Koziura, Latta, Law, Martin, Miller, Oelslager, Otterman, T. Patton, Reinhard, S. Smith, D. Stewart, J. Stewart, Taylor, Wagoner, Walcher,

Williams, Woodard, Yates, Yuko Senators Grendell, Carey, Mumper, Fedor, Brady, Hagan.

To amend section 1541.31 of the Revised Code and to amend Sections 209.18 and 209.18.03 of Am. Sub. H.B. 66 of the 126th General Assembly to revise the Pymatuning Lake Compact, to exempt the Division of Wildlife from making payments into the Department of Natural Resources' Central Support Indirect Fund, and to make an appropriation, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 157**, pass?"

The yeas and nays were taken and resulted - yeas 29, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Wachtmann	Zurz
			Harris-29.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Dann moved to amend the title as follows:

Add the names: "Dann, Armbruster, Austria, Cates, Clancy, Padgett, Amstutz, Coughlin, Gardner, Goodman, Harris, Hottinger, Jacobson, Jordan, Mallory, Miller, Niehaus, Prentiss, Roberts, Schuler, Schuring, Wachtmann, Zurz."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. S. B. No. 167-Senators Grendell, Zurz, Harris, Jacobson, Cates, Mallory, Brady, Amstutz, Armbruster, Carey, Dann, Gardner, Goodman, Miller, Roberts, Schuler, Schuring, Spada, Wachtmann, Wilson, Padgett, Austria, Clancy, Mumper, Hottinger, Niehaus, Jordan, Fedor.

To establish, until December 31, 2006, a moratorium on the use of eminent domain by any entity of the state government or any political subdivision of the state to take, without the owner's consent, private property that is in an unblighted area when the primary purpose for the taking is economic development that will ultimately result in ownership of the property being vested in another private person, to create the Legislative Task Force to Study Eminent Domain and Its Use and Application in the State, and to declare an

emergency, was considered the third time.

The question being, "Shall the section, Section 7, setting forth the emergency features of the bill, stand as a part of the bill?"

Senator Grendell moved to amend as follows:

In line 28, after "(B)" insert "(1)"

In line 35, delete "(1)" and insert "(a)"

In line 39, delete "(2)" and insert "(b)"

In line 42, delete "(3)" and insert "(c)"; delete "provided" and insert "designated for capital purposes"

In line 43, delete "that makes appropriations for capital purposes" and insert "of the General Assembly"

Between lines 43 and 44 insert:

"(2) Until December 31, 2006, any public body seeking to obtain funds described in division (B)(1) of this section, shall certify in writing to the grantor of the funds that the public body has not used its eminent domain authority on or after the effective date of this act to take private property in violation of the moratorium established by this act."

In line 54, delete "twenty-four" and insert "twenty-five"

In line 105, after "General" insert ";

(15) One member representing small businesses, appointed jointly by the Speaker of the House of Representatives and the President of the Senate"

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

The question recurred, "Shall the section, Section 7, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 29, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Wachtmann	Zurz
			Harris-29.

So the section, Section 7, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the bill pass as an emergency measure?"

The yeas and nays were taken and resulted - yeas 29, nays 0, as follows:

Those who voted in the affirmative were: Senators

- | | | | |
|----------|------------|-----------|------------|
| Amstutz | Armbruster | Austria | Brady |
| Carey | Cates | Clancy | Coughlin |
| Dann | Fedor | Gardner | Goodman |
| Grendell | Hagan | Hottinger | Jacobson |
| Jordan | Mallory | Miller | Mumper |
| Niehaus | Padgett | Prentiss | Roberts |
| Schuler | Schuring | Wachtmann | Zurz |
| | | | Harris-29. |

So the bill having received the required constitutional majority passed as an emergency measure.

The question being, "Shall the title be agreed to?"

Senator Grendell moved to amend the title as follows:

Add the name: "Coughlin."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

S. B. No. 182-Senators Fingerhut, Harris, Cates, Grendell, Schuring, Mumper, Armbruster, Brady, Fedor, Niehaus, Zurz.

To amend section 5901.08 of the Revised Code to authorize a county veterans service commission to waive the residency requirement for financial assistance under certain circumstances and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 3, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 29, nays 0, as follows:

Those who voted in the affirmative were: Senators

- | | | | |
|----------|------------|-----------|------------|
| Amstutz | Armbruster | Austria | Brady |
| Carey | Cates | Clancy | Coughlin |
| Dann | Fedor | Gardner | Goodman |
| Grendell | Hagan | Hottinger | Jacobson |
| Jordan | Mallory | Miller | Mumper |
| Niehaus | Padgett | Prentiss | Roberts |
| Schuler | Schuring | Wachtmann | Zurz |
| | | | Harris-29. |

So the section, Section 3, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the bill pass as an emergency measure?"

The yeas and nays were taken and resulted - yeas 28, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Niehaus	Padgett	Roberts	Schuler
Schuring	Wachtmann	Zurz	Harris-28.

So the bill having received the required constitutional majority passed as an emergency measure.

The question being, "Shall the title be agreed to?"

Senator Cates moved to amend the title as follows:

Add the names: "Miller, Jordan, Schuler, Goodman, Dann, Mallory."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

MOTIONS

Senator Hottinger moved that Senators absent the week of Sunday, October 2, 2005, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bills were introduced and considered the first time:

S. B. No. 194-Senators Dann, Fingerhut, Miller, Roberts, Hagan.

To amend section 101.44 and to enact section 101.40 of the Revised Code to provide for the appointment by the General Assembly of joint select investigatory committees comprised of equal, bipartisan membership to investigate misconduct allegedly committed by a state officer or employee or allegedly directly affecting the state and to provide a transactional immunity for a person who testifies before the committee if the person asserts a right to not testify and is compelled to testify.

S. B. No. 195-Senators Dann, Roberts, Fingerhut, Miller, Hagan.

To amend section 101.44 of the Revised Code to provide that unless a House or Senate committee by a two-thirds vote decides otherwise the testimony of a witness examined before a committee or subcommittee may be used in a criminal proceeding against the witness.

S. B. No. 196-Senators Brady, Hagan, Miller, Fingerhut, Fedor.

To amend section 1505.07 of the Revised Code to ban the taking or removal of oil or natural gas from and under the bed of Lake Erie.

OFFERING OF RESOLUTIONS

Senator Harris offered the following resolution:

S. R. No. 123-Senators Harris, Amstutz, Armbruster, Austria, Brady, Carey, Cates, Clancy, Coughlin, Dann, Fedor, Fingerhut, Gardner, Goodman, Grendell, Hagan, Hottinger, Jacobson, Jordan, Mallory, Miller, Mumper, Niehaus, Padgett, Prentiss, Roberts, Schuler, Schuring, Spada, Stivers, Wachtmann, Wilson, Zurz.

Honoring Teri E. Geiger on her service to the State of Ohio.

WHEREAS, The members of the Senate of the 126th General Assembly of Ohio are pleased to extend special recognition to Teri E. Geiger on nineteen years of loyal and exemplary service to the State of Ohio; and

WHEREAS, Teri Geiger is a remarkable individual, for she has combined civic concern with selfless initiative to become a dynamic state employee. After a year as an intern with the Legislative Service Commission, she joined the staff of the Ohio Senate Republican Caucus as a communication assistant in 1987, and she later served as director of communication and then director of communication and research before being named chief of staff in 1996; and

WHEREAS, Teri Geiger has helped to maintain the efficiency and effectiveness of the legislative process, and through her tremendous contributions, she has truly demonstrated her commitment to the success of state government. Without the efforts of conscientious people such as she, many services that are currently available to the constituents of Ohio would not exist, and the laurels of her career stand as a tribute to her diligence; and

WHEREAS, Named an Outstanding Alumna in 1995 by the Ohio University Department of Political Science and selected as one of the 10 Most Powerful Women in State Government in 2003 by Gannett News Service, Teri Geiger has displayed exceptional dedication, responsibility, and enthusiasm in all of her endeavors. She is truly deserving of high praise for her devotion to her

job, her community, and the State of Ohio; therefore be it

RESOLVED, That we, the members of the Senate of the 126th General Assembly of Ohio, in adopting this Resolution, commend Teri E. Geiger on her outstanding state service and extend best wishes for success in her new post as director of government relations at Ohio University; and be it further

RESOLVED, That the Clerk of the Senate transmit a duly authenticated copy of this Resolution to Teri E. Geiger.

The question being, "Shall the resolution, **S. R. No. 123**, be adopted?"

So the resolution was adopted.

Senator Miller offered the following resolution:

S. R. No. 124-Senators Miller, Zurz, Wachtmann, Prentiss, Roberts, Fedor, Brady, Clancy, Schuler, Mumper, Fingerhut, Carey, Schuring, Dann, Armbruster, Padgett, Gardner.

Honoring Dr. Larry H. Christman on your retirement.

The question being, "Shall the resolution, **S. R. No. 124**, be adopted?"

So the resolution was adopted.

COMMUNICATIONS FROM THE GOVERNOR

The President handed down the following messages from the Governor which were read by the Clerk:

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Sally T. Baden, Democrat, from Cleveland Heights, Cuyahoga County, Ohio, as a Member of the Radiation Advisory Council for a term beginning September 23, 2005, and ending at the close of business September 8, 2010, replacing Berta Howard, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 26th day of September in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Kerry T. Krugh, Independent, from Whitehouse, Lucas County, Ohio, as a Member of the Radiation Advisory Council for a term beginning September 23, 2005, and ending at the close of business September 8, 2010, replacing William J. Potvin, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 26th day of September in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Lawrence S. Osher, Republican, from Beachwood, Cuyahoga County, Ohio, as a Member of the Radiation Advisory Council for a term beginning September 23, 2005 and ending at the close of business September 8, 2010.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 26th day of September in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Robert E. Peterson, Jr., Republican, from Pickerington, Fairfield County, Ohio, as a Member of the Radiation Advisory Council for a new term beginning September 23, 2005 and ending at the close of business September 8, 2010.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this

26th day of September in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Billy R. Thomas, Republican, from Findlay, Hancock County, Ohio, as a Member of the Radiation Advisory Council for a term beginning September 23, 2005 and ending at the close of business September 8, 2010.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 26th day of September in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, October 6, 2005 at 11:00 o'clock a.m.

Attest:

MATTHEW T. SCHULER,
Clerk.